

VI. PROCEDURES FOR SUBDIVISIONS CREATED BY RENT, LEASE OR OTHER CONVEYANCE

A. General Procedures

1. A subdivision created by rent, or lease or other conveyance (such as mobile or manufactured home and recreational vehicle (RV) parks, space for an additional dwelling unit, or space for a non-residential use when there is an existing development right) is any tract of land divided by renting, leasing, or otherwise conveying portions thereof. It is owned, however, as one parcel under single ownership. Placement of two or more mobile or manufactured homes on a parcel with an existing residential or non-residential use constitutes a mobile or manufactured home park under DEQ regulations. Subdivisions created in this manner are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review, and approved by the governing body before portions thereof may be conveyed. As such, no final plat is required for subdivisions created by rent or lease. Approval must be based on the criteria in Chapter III, section B.10 (a-j) of these regulations.
2. Major subdivisions created by rent, lease, or other conveyance shall comply with the appropriate procedures in Chapter III. Minor subdivisions may receive review as provided for in Chapter IV, either as a first minor or subsequent minor subdivision.
3. For all rental or lease subdivisions, the applicant shall submit a site plan conforming to the requirements for preliminary plats. Subdivision application forms, contents and supplements are contained in Appendix B. The preliminary site plan shall show the lot layout and the typical location of the unit(s) on the lot(s). The applicant shall submit the site plan to the planning staff.
4. The governing body shall approve, conditionally approve, or deny the subdivision application site plan of a rental or lease subdivision within sixty (60) working days of a complete and sufficient application if it is a major subdivision, and within thirty-five (35) working days if it is a minor subdivision, unless the applicant consents to an extension of the review period.

If the governing body approves, conditionally approves or denies the subdivision application, it shall inform the applicant of the

decision in writing. The letter shall include a copy of the plat and shall state the reason(s) for denial or enumerating the conditions of approval.

5. Before any portion of a rental or lease subdivision may be occupied or conveyed, the subdivider shall have installed all required improvements. Except where deemed unnecessary by planning staff, preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be certified by an engineer registered in Montana, and submitted to the governing body for its approval prior to the construction of improvements. The governing body may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.

B. Guest Houses and Cabins.

Lewis and Clark County allows only one development right per parcel; possible additional development of a parcel is what is being assessed during the subdivision review process. However, a guesthouse or cabin is a permitted accessory use, provided the guesthouse or cabin is not a permanent and fully-equipped residence and the use meets the following criteria:

1. Serves a secondary use that is clearly subordinate to the principal dwelling on the same lot;
2. Is under 1,000 square feet of living space;
3. Is occupied no more than 90 total days in any given calendar year;
4. Has no permanent kitchen or cooking facilities (such as a stove, refrigerator, or sink or water line located outside of a bathroom);
5. Has no more than two bedrooms;
6. Has the same address as the principal dwelling;
7. The above restrictions are placed on the deed;
8. The subject lot is one acre or more in size; and
9. There is sufficient area on the lot for an additional principal drainfield and replacement area as required by DEQ and the Environmental Health Department.

C. Family Declarations

A family declaration is a contract between the County and a property owner that temporarily permits an additional non-permanent dwelling for an immediate family member (parent, child, and grandparent) on a lot for reasons of hardship. The temporary occupancy cannot include any sale, rent, lease, other conveyance, or any compensation, consideration, or in-kind service. The family declaration contract has a two-year term and must be renewed at the end of the two years if the hardship continues. When the contract or the hardship ends, the family declaration is voided and the non-permanent structure must be removed. The temporary use is not transferable to another family member or any other person.

The procedure for creating a family declaration is as follows:

1. Applicant makes an appointment with the Permit Coordinator to set up a pre-application conference.
2. Applicant provides documents to support the family declaration request. Such documentation may include: deed of the property, certificate of survey, covenants, birth certificates, or marriage licenses.
3. Pre-application conference: Applicant explains the hardship that warrants the request and discusses proposal with the County Planning and Environmental Health staff.
4. If the hardship is deemed valid, Planning staff will prepare a family declaration contract for the Applicant. The Planning Department may require the contract contain conditions for approval.
5. The contract must be notarized and returned to the Permit Coordinator.
6. The family declaration and any other required documents (such as DEQ approvals) shall be filed with the Clerk and Recorder's Office.
7. Upon permitting the temporary use, the applicant may place one additional non-permanent dwelling on the property.
8. When the hardship for which the family declaration ends, the family declaration is void and the non-permanent structure must be removed.

9. The non-permanent structure may be permitted to remain, provided the additional development right is approved by the governing body through the complete subdivision process, as outlined in Chapter IV.